

<i>SERFF Tracking Number:</i>	<i>WESA-125428545</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Arch Insurance Company</i>	<i>State Tracking Number:</i>	<i>#26490 \$50</i>
<i>Company Tracking Number:</i>	<i>ARCH-08-005</i>		
<i>TOI:</i>	<i>17.0 Other Liability - Claims Made/Occurrence</i>	<i>Sub-TOI:</i>	<i>17.0020 Commercial Umbrella & Excess</i>
<i>Product Name:</i>	<i>Commercial Excess Liability</i>		
<i>Project Name/Number:</i>	<i>Commercial Excess Liability Policy Revision/ARCH-08-005</i>		

Filing at a Glance

Company: Arch Insurance Company	SERFF Tr Num: WESA-125428545	State: Arkansas
Product Name: Commercial Excess Liability	SERFF Status: Closed	State Tr Num: #26490 \$50
TOI: 17.0 Other Liability - Claims Made/Occurrence		
Sub-TOI: 17.0020 Commercial Umbrella & Excess	Co Tr Num: ARCH-08-005	State Status: Fees verified and received
Filing Type: Form	Co Status:	Reviewer(s): Betty Montesi, Edith Roberts, Brittany Yielding
	Authors: Westmont Associates, Wesley Pohler	Disposition Date: 01/23/2008
	Date Submitted: 01/15/2008	Disposition Status: Approved
Effective Date Requested (New): 03/01/2008		Effective Date (New):
Effective Date Requested (Renewal): 03/01/2008		Effective Date (Renewal):
State Filing Description:		

General Information

Project Name: Commercial Excess Liability Policy Revision	Status of Filing in Domicile: Pending
Project Number: ARCH-08-005	Domicile Status Comments: Pending in Missouri
Reference Organization: N/a	Reference Number: N/a
Reference Title: N/a	Advisory Org. Circular: N/a
Filing Status Changed: 01/23/2008	
State Status Changed: 01/23/2008	Deemer Date:
Corresponding Filing Tracking Number:	
Filing Description:	

The Company is introducing its newly revised Commercial Excess Liability Policy in your jurisdiction and countrywide. This current edition replaces the previously filed and approved 07 04 edition of the form. Other than a few editorial changes (e.g. the conversion of the form from two to one column) which do not impact coverage whatsoever, the primary reason for the revision is the inclusion of an additional provision in Section II. Limits of Insurance. In this section, the Company has amended paragraph c. and added new paragraph e. and re-lettered the following paragraphs

<i>SERFF Tracking Number:</i>	<i>WESA-125428545</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Arch Insurance Company</i>	<i>State Tracking Number:</i>	<i>#26490 \$50</i>
<i>Company Tracking Number:</i>	<i>ARCH-08-005</i>		
<i>TOI:</i>	<i>17.0 Other Liability - Claims Made/Occurrence</i>	<i>Sub-TOI:</i>	<i>17.0020 Commercial Umbrella & Excess</i>
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in that section.

The purpose of the amended paragraph c. and new paragraph e. is to align the Company's Policy Aggregate(s) with the underlying insurance policies, where in some cases a single aggregate applied to the policy and in other cases multiple aggregates applied or the underlying policy was unclear with regard to the application of the aggregate. In the case of a single policy aggregate, the Company's intent is to follow form. In the case of multiple aggregates or underlying policies that use statements such as "Aggregates Where Applicable", the Company desires to clarify its intent that its excess follow form policy will only provide a General Aggregate and a Products-Completed Operations Aggregate, unless the Company states otherwise on its Declarations or by endorsement.

Please be advised that the revisions made to the policy do not result in any rating impact whatsoever. Please refer to the attached side-by-side comparison for additional detail. We hereby respectfully request an effective date of March 1, 2008 for this filing.

Company and Contact

Filing Contact Information

(This filing was made by a third party - westmontassociatesinc)

Wesley Pohler, AVP	wes@westmontlaw.com
25 Chestnut Street	(856) 216-0220 [Phone]
Haddonfield, NJ 08033	(856) 216-0303[FAX]

Filing Company Information

Arch Insurance Company	CoCode: 11150	State of Domicile: Missouri
300 First Stamford Place	Group Code: 1279	Company Type: Property and Casualty

5th Floor East		
Stamford, CT 06902	Group Name:	State ID Number:
(203) 388-3220 ext. [Phone]	FEIN Number: 43-0990710	

Filing Fees

Fee Required?	Yes
Fee Amount:	\$50.00

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Retaliatory?	No		
Fee Explanation:	\$50.00 Fee for Arkansas filings		
Per Company:	No		

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COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
Arch Insurance Company	\$0.00	01/15/2008	

CHECK NUMBER	CHECK AMOUNT	CHECK DATE
26490	\$50.00	12/13/2007

SERFF Tracking Number: WESA-125428545 State: Arkansas
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Project Name/Number: Commercial Excess Liability Policy Revision/ARCH-08-005

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	01/23/2008	01/23/2008

SERFF Tracking Number: *WESA-125428545* *State:* *Arkansas*
Filing Company: *Arch Insurance Company* *State Tracking Number:* *#26490 \$50*
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TOI: *17.0 Other Liability - Claims Made/Occurrence* *Sub-TOI:* *17.0020 Commercial Umbrella & Excess*
Product Name: *Commercial Excess Liability*
Project Name/Number: *Commercial Excess Liability Policy Revision/ARCH-08-005*

Disposition

Disposition Date: 01/23/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

SERFF Tracking Number: WESA-125428545 State: Arkansas

Filing Company: Arch Insurance Company State Tracking Number: #26490 \$50

Company Tracking Number: ARCH-08-005

TOI: 17.0 Other Liability - Claims Made/Occurrence Sub-TOI: 17.0020 Commercial Umbrella & Excess

Product Name: Commercial Excess Liability

Project Name/Number: Commercial Excess Liability Policy Revision/ARCH-08-005

Item Type	Item Name	Item Status	Public Access
Supporting Document	Explanatory Memo	Approved	Yes
Supporting Document	Letter of Authorization	Approved	Yes
Supporting Document	Side by Side Comparison	Approved	Yes
Supporting Document	Cover Letter - Excess	Approved	Yes
Form	Excess Third Party Liability Policy	Approved	Yes

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Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Excess Third Party Liability Policy	00 EXT0020 00 02 08	02 08	Policy/Coverage Form	Replaced Form #:0.00 00 EXT0020 00 07 04 Previous Filing #: ARCH-05-001		00EXT00200 00208.pdf

Excess Third Party Liability Policy

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy or under **controlling underlying insurance**. The words "we", "us" and "our" refer to the company stated in the Declarations providing this insurance.

This is excess insurance and only applies to those coverages for which **underlying insurance** is shown in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

If any provision of the **controlling underlying insurance** conflicts with any provision of our insurance, then the provision of our insurance will apply. However, if our provision would result in broader coverage than is provided by **controlling underlying insurance**, then the provision of the **controlling underlying insurance** will apply. This insurance will not provide broader coverage than that provided by the **controlling underlying insurance**. This policy will not recognize reduction or exhaustion of the underlying limit of liability, retained limit, or self-insured retention by any claim or suit or any payment of **loss**, cost or expense excluded by this policy or any endorsements to this policy.

Other words and phrases that appear in bold have special meaning. Refer to Section **V - DEFINITIONS**.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE DECLARATIONS MADE A PART HEREOF AND SUBJECT TO ALL OF THE TERMS OF THIS POLICY, WE AGREE WITH YOU AS FOLLOWS:

I. INSURING AGREEMENTS

We will pay on behalf of the **insured**, except as otherwise stated in this policy, those amounts of **loss** for which coverage is provided under the definitions, terms, conditions, limitations and exclusions of the **controlling underlying insurance** in effect at the inception of this policy and which exceeds the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy. The amount we will pay for **loss** is limited as provided under Section **II – Limits of Insurance**.

II. LIMITS OF INSURANCE

- a. The Limits of Insurance shown in Item 2. of the Declarations and the rules below determine the most we will pay for all **loss** regardless of the number of:
 1. **Insureds**;
 2. Claims made, or suits brought; or
 3. Persons or organizations making claims or bringing suits.
- b. Subject to **II.a.**, **II.c** and **II.d.**, the Each Occurrence Limit stated in Item 2.(a) of the Declarations is the most we will pay for the sum of all **loss** arising out of any one occurrence.

If the applicable aggregate limit of insurance has been reduced by payment of **loss** to an amount that is less than the limit for Each Occurrence stated in Item 2.(a) of the Declarations, the remaining aggregate limit of insurance is the most that will be available for payment of **loss** arising out of any other occurrence.

- c. Subject to Paragraphs **II.a** and **II.b.** above, the Products-Completed Operations Aggregate Limit stated in Item 2.(b) of the Declarations is the most we will pay for all loss within the products-completed operations hazard, regardless of whether the aggregate limit for each coverage provided by the **controlling underlying insurance** applies separately.
- d. Subject to Paragraphs **II.a.** and **II.b.** above, the limit stated in Item 2.(c) of the Declarations for the General Aggregate Limit is the most we will pay for all loss, except for loss within the products - completed operations hazard, that are subject to an aggregate limit provided by **controlling underlying insurance**. The General Aggregate Limit applies to all **loss**, except for **loss** within the products-completed operations hazard, regardless of whether the aggregate limit for each coverage provided by the **controlling underlying insurance** applies separately.
- e. If any **underlying insurance** does not provide separate aggregate limits for **loss** within the products-completed operations hazard and **loss** not within the products-completed operations hazard, the limit stated in Item **2.(c)** of the Declarations for the General Aggregate Limit is the most we will pay for all **loss**, including **loss** within the products-completed operations hazard. Under such circumstances, any limit appearing in Item **2.(b)** of the Declarations does not apply.
- f. Subject to Paragraphs **II.a.**, **II.b.**, **II.c.**, **II.d.** and **II.e.** above, if the Limits of Liability of Underlying Insurance stated in Item 3. of the Declarations are reduced or exhausted solely by payment of **loss** to which this policy applies, such insurance provided by this policy will apply in excess of the reduced **underlying insurance** or, if all **underlying insurance** is exhausted, will apply as **underlying insurance** subject to the same definitions, terms, conditions, limitations and exclusions of the **controlling underlying insurance**, except as otherwise limited by the definitions, terms, conditions, limitations and exclusions of this policy.
- g. The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the **policy period** shown in the Declarations, unless the **policy period** is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.
- h. If defense expenses and payments are included within the Limit of Liability of any **underlying insurance**, then any such defense expense or payment we make, in accordance with Section **III. DEFENSE**, shall reduce the Limit of Insurance of this policy.

If defense expenses and payments of none of the **underlying insurance** reduce the Limit of Liability provided by those policies, then any such defense expense or payment we make, in accordance with Section **III. DEFENSE**, shall not reduce the Limit of Insurance of this policy.

III. DEFENSE

- a. We will not be required to assume charge of the investigation or defense of any claim or any suit against an **insured**.
- b. We will have the right, but not the duty, to be associated with the **insured** or the underlying insurers or both in the investigation of any claim or defense of any suit which in our opinion may create liability on us for payment under this policy.
- c. If the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy are exhausted solely by payment of **loss**, we shall have the right but not the duty to investigate and settle any claim

or assume the defense of any suit which in our opinion may give rise to payment under this policy. We may, however, withdraw from the defense of any suit or tender the continued defense to you if our applicable Limits of Insurance stated in Item 2 of the Declarations is exhausted by payment of **loss**.

If we exercise our rights under Paragraph **b.** or **c.** above we will do so at our own expense, subject to Section **II. LIMITS OF INSURANCE**, Paragraph **h.** above.

IV. EXCLUSIONS

It is agreed that this policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or any payment of **loss**, cost or expense excluded by this policy. The exclusions contained herein and any exclusions contained in endorsements to this policy apply regardless of whether any cause, event, material or product contributed concurrently or in any sequence to the injury or damage.

It is further agreed that regardless of whether or not coverage is afforded by the **controlling underlying insurance**, this policy does not apply to any:

a. Pollution

1. Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.
2. Claim, suit, demand, **loss**, cost or expense that, in any way, in whole or in part, arises out of, relates to or results from any:
 - (a) Request, demand, order or statutory or regulatory requirement, or any other action authorized or required by law, that any **insured** or others investigate, abate, test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, remediate or dispose of, or in any way respond to, or assess the effects of **pollutants** as well as any **loss**, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of **pollutants**.

As used in this exclusion, "**pollutants**" means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

b. Asbestos

Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the **asbestos hazard**.

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, **loss**, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to,

or assessing the effects of **asbestos**, as well as any loss, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom;

As used in this exclusion, “**asbestos hazard**” means:

1. Actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, **asbestos** in any manner or form whatsoever, either directly or indirectly; or
2. The actual or alleged failure to warn, advise or instruct related to **asbestos** in any manner or form whatsoever; or
3. The actual or alleged failure to prevent exposure to **asbestos** in any manner or form whatsoever; or
4. The actual or alleged presence of **asbestos** in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

As used in this exclusion, “**asbestos**” means any substance, regardless of its form or state, containing asbestos.

c. Nuclear

1. Claim, suit, demand or **loss** with respect to which an **insured** under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
2. Claim, suit, demand or **loss** that, in any way, in whole or in part, arises out of, relates to, or results from the **hazardous properties** of **nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is or, had this policy not been issued, would be entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
3. Medical Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the **hazardous properties** of **nuclear material**, and arising out of the operation of a **nuclear facility** by any person or organization.
4. To any bodily injury or **property damage** resulting from the **hazardous properties** of **nuclear material**, if:
 - (a) the **nuclear material (1)** is at any **nuclear facility** owned by, or operated by, or on behalf of, an **insured** or **(2)** has been discharged or dispersed therefrom;
 - (b) the **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **insured**; or

- (c) the bodily injury or **property damage** that, in any way, in whole or in part, arises out of, relates to, or results from the furnishing by an **insured** of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (c) applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

"hazardous properties" includes radioactive, toxic or explosive properties;

"nuclear material" means **source material**, **"special nuclear material"** or **by-product material**;

"source material," "special nuclear material," and **"by-product material"** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

"waste" means any waste material (a) containing **by-product material** and (b) resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph 1 or 2 thereof;

"nuclear facility" means:

1. any **nuclear reactor**;
2. any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing **spent fuel**, or (c) handling, processing or packaging **waste**;
3. any equipment or device designed or used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

V. DEFINITIONS

Except as otherwise defined in this policy or in any endorsement to this policy, the definition of terms and phrases contained in this policy and any endorsements to this policy will be the same as those terms and phrases are defined in the **controlling underlying insurance**.

- a. **“controlling underlying insurance”** means the policy or policies listed in Item 3.a. of Schedule A – Schedule of Underlying Insurance of this policy.
- b. **“insured”** means:
 - 1. you; and
 - 2. any person or organization qualifying as an **insured** under **controlling underlying insurance**, but only to the extent that:
 - (a) coverage is provided by this policy; and
 - (b) coverage is provided by **controlling underlying insurance**, or would have been provided but for the exhaustion of such policy's limits of liability.
- c. **“loss”** means amounts paid to settle a claim or suit, or satisfy a judgment, for which the **insured** is legally liable. The amounts that are payable by us are subject to deductions for subrogation, salvages, and any other recoveries made or that are available to an **insured**.
- d. **“policy period”** means the period beginning with the Effective Date shown in the Declarations and ending on the Expiration Date shown in the Declarations, unless canceled as provided in Condition **g.** of this policy.
- e. **“underlying insurance”** means all policies and the Limits of Liability listed in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

VI. CONDITIONS

a. Notice of Occurrence or Claim

Whenever you have information from which you may reasonably conclude that an occurrence or claim appears likely to involve this policy, written notice shall be given to us or any of our authorized agents as soon as practicable.

b. Notice of Suit

If suit is brought which appears likely to involve this policy or seeks damages in an amount that would exceed 50% of the limits of the **underlying insurance**, immediate written notice shall be given to us along with copies of the suit papers.

c. Duties After Notice of Occurrence, Claim or Suit Is Given

You and any other involved **insured** must:

- 1. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the occurrence, claim or suit;
- 2. Authorize us to obtain records and other information;
- 3. Cooperate with us in the investigation or settlement of the claim, and, if applicable, defense against the suit;
- 4. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this insurance may also apply; and

5. No **insured** will, except at the **insured's** own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

d. Maintenance of Underlying Insurance

The **underlying insurance** shall remain in full force and effect throughout the **policy period** except for reduction of the aggregate limit due to payment of claims, settlements, or judgments. This insurance will not take the place of any **underlying insurance** in the event of denial or rejection of a claim, or if any **underlying insurance** is cancelled or not renewed, or for any other reason except for reduction due to payment of claims, settlements, or judgments.

Failure to maintain any **underlying insurance** will not invalidate this insurance. However, this insurance will apply as if the **underlying insurance** were in full force and effect.

Renewals or replacements of any **underlying insurance** will not be materially changed without our agreement.

e. Bankruptcy, Insolvency or Other Financial Impairment

In the event of the bankruptcy, insolvency or other financial impairment of any underlying insurer, or of the **insured** if the **underlying insurance** is comprised in whole or in part of self-insurance, we shall be liable only to the same extent we would have been had such bankruptcy, insolvency or other financial impairment not occurred. This insurance will not take the place of any **underlying insurance** in the event of bankruptcy, insolvency or other financial impairment of any underlying insurer or **insured**. This insurance will apply as if the **underlying insurance** were in full force and effect.

f. Other Insurance

If other insurance applies to **loss** that is also covered by this policy, this policy shall apply excess of the other insurance. Nothing herein will be construed to make this policy subject to the terms, conditions and limitations of other such insurance. However, this provision will not apply if the other such insurance is written to be excess of this policy.

Other insurance includes any type of self-insurance or other mechanism by which an **insured** arranges for the funding of legal liabilities.

If our Limits of Insurance stated in Item 2. of the Declarations are part of the total Limits of Insurance stated in Item 2, then the limits of our liability shall be that proportion of all **loss** which our Limits of Insurance bear to the total Limits of Insurance in Item 2. and which is in excess of the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

g. Cancellation

This policy may be canceled by you either by mailing or delivering advance written notice to us stating when cancellation shall be effective. This policy may be canceled by us by mailing to you at the address shown in Item 1. of the Declarations, written notice stating when, not less than thirty (30) days thereafter, ten (10) days thereafter if cancellation is for nonpayment of the premium, such cancellation shall be effective. The mailing of notice is sufficient notice and the effective date of cancellation stated in the notice will become the end of the policy period. Delivery of written notice either by you or by us shall be equivalent to mailing. If you cancel, earned premium will be computed in accordance with the customary short-rate table

and procedure, but we will always be entitled to receive or keep the Minimum Premium amount stated in Item 5. of the Declarations. If we cancel, earned premium will be computed pro rata.

Premium adjustment may be made at the time cancellation is effected or as soon afterwards as is practicable. Our check or our representative's check mailed or delivered will be sufficient tender of any refund due you.

Cancellation will be effective on the date stated in the notice even though we have not made the refund of the unearned premium.

h. First Named Insured

The person or organization first named in Item 1. of the Declarations is authorized to act for all **insureds**.

If this policy insures more than one person or organization, cancellation must be effected by the first Named Insured and notice of cancellation by us will be made to the first Named Insured and shall be considered as notice to all. Payment of any unearned premium to the first Named Insured shall be for the account of all.

The first Named Insured is responsible for the premium. If the first Named Insured cannot or refuses to pay any or all of the premium, all of you are jointly and severally responsible to pay us the premium due.

i. Appeals

In the event that you or any underlying insurer elects not to appeal a judgment in excess of the Limits of Liability of the Underlying Insurance, we may elect to appeal at our expense. Our Limit of Insurance shall not be increased because of the appeal.

j. Legal Action Against Us

No person or organization has a right under this policy to:

1. Join us as a party or otherwise bring us into a suit asking damages from an **insured**;
2. Sue us, unless all the terms of this policy have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for **loss** that is not payable under the terms of this policy or that is in excess of the our Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative.

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<i>Product Name:</i>	<i>Commercial Excess Liability</i>		
<i>Project Name/Number:</i>	<i>Commercial Excess Liability Policy Revision/ARCH-08-005</i>		

Rate Information

Rate data does NOT apply to filing.

SERFF Tracking Number: WESA-125428545 State: Arkansas
Filing Company: Arch Insurance Company State Tracking Number: #26490 \$50
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Product Name: Commercial Excess Liability
Project Name/Number: Commercial Excess Liability Policy Revision/ARCH-08-005

Supporting Document Schedules

	Review Status:	
Satisfied -Name: Explanatory Memo	Approved	01/23/2008
Comments: Attached is the explanatory memo		
Attachment: Memo.pdf		
Satisfied -Name: Letter of Authorization	Approved	01/23/2008
Comments: Attached is the letter of authorization		
Attachment: 2008 Use this Letter.pdf		
Satisfied -Name: Side by Side Comparison	Approved	01/23/2008
Comments: Attached is the Side by Side Comparison for the policy		
Attachment: Side by Side.pdf		
Satisfied -Name: Cover Letter - Excess	Approved	01/23/2008
Comments: Attached is the cover letter.		
Attachment: Cover Letter - Excess.pdf		

**ARCH INSURANCE COMPANY
COMMERCIAL EXCESS LIABILITY
POLICY REVISION SUBMISSION
EXPLANATORY MEMORANDUM**

The Company is introducing its newly revised Commercial Excess Liability Policy in your jurisdiction and countrywide. This current edition replaces the previously filed and approved 07 04 edition of the form. Other than a few editorial changes (e.g. the conversion of the form from two to one column) which do not impact coverage whatsoever, the primary reason for the revision is the inclusion of an additional provision in Section II. Limits of Insurance. In this section, the Company has amended paragraph c. and added new paragraph e. and re-lettered the following paragraphs in that section.

The purpose of the amended paragraph c. and new paragraph e. is to align the Company's Policy Aggregate(s) with the underlying insurance policies, where in some cases a single aggregate applied to the policy and in other cases multiple aggregates applied or the underlying policy was unclear with regard to the application of the aggregate. In the case of a single policy aggregate, the Company's intent is to follow form. In the case of multiple aggregates or underlying policies that use statements such as "Aggregates Where Applicable", the Company desires to clarify its intent that its excess follow form policy will only provide a General Aggregate and a Products-Completed Operations Aggregate, unless the Company states otherwise on its Declarations or by endorsement.

Please be advised that the revisions made to the policy do not result in any rating impact whatsoever. Please refer to the attached side-by-side comparison for additional detail. We hereby respectfully request an effective date of March 1, 2008 for this filing.

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January 1, 2008

Arch Insurance Company
NAIC: #11150
Letter of Authorization
Filing of Forms, Rates and Rules

Dear Sir or Madame:

In accordance with the applicable statutes and regulations in your state, Wesley Pohler and Westmont Associates are hereby authorized to file form, rate and rate filings on behalf of Arch Insurance Company.

Very truly yours,



Carol Kennedy
Vice President & Director of Compliance

Text Comparison

Documents Compared

EXCESS POLICY REVISION Final.pdf

00EXT0020000208.pdf

Summary

395 word(s) added

368 word(s) deleted

3573 word(s) matched

94 block(s) matched

To see where the changes are, please scroll down.

Excess Third Party Liability Policy

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy or under **controlling underlying insurance**. The words "we", "us" and "our" refer to the company stated in the Declarations providing this insurance.

This is excess insurance and only applies to those coverages for which **underlying insurance** is shown in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

If any provision of the **controlling underlying insurance** conflicts with any provision of our insurance, then the provision of our insurance will apply. However, if our provision would result in broader coverage than is provided by **controlling underlying insurance**, then the provision of the **controlling underlying insurance** will apply. This insurance will not provide broader ~~coverage~~ than that provided by the **controlling underlying insurance**. This policy will not recognize reduction or exhaustion of the underlying limit of liability, retained limit, or self-insured retention by any claim or suit or any payment of **loss**, cost or expense excluded by this policy or any endorsements to this policy.

Other words and phrases that appear in bold have special meaning. Refer to Section V - **DEFINITIONS**.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE DECLARATIONS MADE A PART HEREOF AND SUBJECT TO ALL OF THE TERMS OF THIS POLICY, WE AGREE WITH YOU AS ~~FOL~~
~~LOWS:~~

I. INSURING AGREEMENTS

We will pay on behalf of the **insured**, except as ~~other~~
~~wise~~ stated in this policy, those amounts of **loss** for which coverage is provided under the definitions, terms, conditions, limitations and exclusions of the **controlling underlying insurance** in effect at the inception of this policy and which exceeds the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy. The amount we will pay for **loss** is limited as ~~pro~~
~~vided~~ under Section II – **Limits of Insurance**.

Item 2.(a) of the Declarations, the remaining ~~aggre~~
~~gate~~ limit of insurance is the most that will be ~~avail~~
~~able~~ for payment of loss arising out of any other occurrence.

- ~~c. Subject to Paragraphs II.a. and II.b. above, the~~
~~Products-Complete~~ Operations Aggregate Limit stated in Item 2.(b) of the Declarations is the most we will pay for all **loss** within the products-completed operations ~~hazard~~.
- d. Subject to Paragraphs II.a. and II.b. above, the limit stated in Item 2.(c) of the Declarations for the General Aggregate Limit is the most we will pay for all **loss**, except for **loss** within the ~~prod~~
~~ucts-completed operations hazard~~, that are sub-
ject to an aggregate limit provided by **controlling underlying insurance**. The General Aggregate Limit applies to all **loss**, except for **loss** within the products-completed operations hazard, ~~regard~~
~~less of whether the aggregate limit for each cov~~
~~erage~~ provided by the **controlling underlying insurance** applies separately.
- e. Subject to Paragraphs II.a., II.b., II.c., ~~and II.d.~~
above, if the Limits of Liability of Underlying ~~in~~
~~surance~~ stated in Item 3. of the Declarations are reduced or exhausted solely by payment of **loss** to which this policy applies, such insurance ~~pro~~
~~vided~~ by this policy will apply in excess of the ~~re~~
~~duced underlying insurance~~ or, if all **underlying insurance** is exhausted, will apply as **underlying insurance** subject to the same definitions, terms, conditions, limitations and exclusions of the ~~con~~
~~trolling underlying insurance~~, except as ~~othe~~
~~rwise~~ limited by the definitions, terms, conditions, limitations and exclusions of this policy.

II. LIMITS OF INSURANCE

- a. The Limits of Insurance shown in Item 2. of the ~~Dec~~
~~larations~~ and the rules below determine the most we will pay for all **loss** regardless of the number of:

1. **Insureds;**
2. Claims made, or suits brought; or
3. Persons or organizations making claims or ~~bring~~
~~ing~~ suits.

- b. Subject to II.a., II.c and II.d., the Each Occurrence Limit stated in Item 2.(a) of the Declarations is the most we will pay for the sum of all **loss** arising out of any one occurrence.

If the applicable aggregate limit of insurance has been reduced by payment of **loss** to an amount that is less than the limit for Each Occurrence stated in

Excess Third Party Liability Policy

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy or under **controlling underlying insurance**. The words "we", "us" and "our" refer to the company stated in the Declarations providing this insurance.

This is excess insurance and only applies to those coverages for which **underlying insurance** is shown in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

If any provision of the **controlling underlying insurance** conflicts with any provision of our insurance, then the provision of our insurance will apply. However, if our provision would result in broader coverage than is provided by **controlling underlying insurance**, then the provision of the **controlling underlying insurance** will apply. This insurance will not provide broader coverage than that provided by the **controlling underlying insurance**. This policy will not recognize reduction or exhaustion of the underlying limit of liability, retained limit, or self-insured retention by any claim or suit or any payment of **loss**, cost or expense excluded by this policy or any endorsements to this policy.

Other words and phrases that appear in bold have special meaning. Refer to Section **V - DEFINITIONS**.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE DECLARATIONS MADE A PART HEREOF AND SUBJECT TO ALL OF THE TERMS OF THIS POLICY, WE AGREE WITH YOU AS FOLLOWS:

I. INSURING AGREEMENTS

We will pay on behalf of the **insured**, except as otherwise stated in this policy, those amounts of **loss** for which coverage is provided under the definitions, terms, conditions, limitations and exclusions of the **controlling underlying insurance** in effect at the inception of this policy and which exceeds the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy. The amount we will pay for **loss** is limited as provided under Section **II – Limits of Insurance**.

II. LIMITS OF INSURANCE

- a. The Limits of Insurance shown in Item 2. of the Declarations and the rules below determine the most we will pay for all **loss** regardless of the number of:
 1. **Insureds**;
 2. Claims made, or suits brought; or
 3. Persons or organizations making claims or bringing suits.
- b. Subject to **II.a.**, **II.c** and **II.d.**, the Each Occurrence Limit stated in Item 2.(a) of the Declarations is the most we will pay for the sum of all **loss** arising out of any one occurrence.

If the applicable aggregate limit of insurance has been reduced by payment of **loss** to an amount that is less than the limit for Each Occurrence stated in Item 2.(a) of the Declarations, the remaining aggregate limit of insurance is the most that will be available for payment of **loss** arising out of any other occurrence.

- ~~f.~~ The Limits of Insurance of this policy apply ~~separately~~ to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the **policy period** shown in the Declarations, unless the **policy period** is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.
- ~~g.~~ If defense expenses and payments are included within the Limit of Liability of any **underlying insurance**, then any such defense expense or payment we make, in accordance with Section III. **DEFENSE**, shall reduce the Limit of Insurance of this policy.

If defense expenses and payments of none of the **underlying insurance** reduce the Limit of ~~Liability provided by those policies, then any such defense expense or payment we make, in accordance with Section III. DEFENSE, shall not reduce~~ the Limit of Insurance of this policy.

III. DEFENSE

- a. We will not be required to assume charge of the ~~investigation~~ or defense of any claim or any suit against an **insured**.
- b. We will have the right, but not the duty, to be ~~associated~~ with the **insured** or the underlying insurers or both in the investigation of any claim or defense of any suit which in our opinion may create liability on us for payment under this policy.
- c. If the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy are exhausted solely by payment of **loss**, we shall have the right but not the duty to investigate and settle any claim or assume the defense of any suit which in our opinion may give rise to payment under this policy. We may, however, withdraw from the defense of any suit or tender the continued defense to you if our ~~applicable~~ Limits of Insurance stated in Item 2 of the Declarations is exhausted by payment of **loss**.

If we exercise our rights under Paragraph ~~b.~~ or ~~c.~~ above we will do so at our own expense, subject to Section II. **LIMITS OF INSURANCE**, Paragraph ~~g.~~ above.

IV. EXCLUSIONS

It is agreed that this policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or any payment of **loss**, cost or expense excluded by this policy. The exclusions contained herein and any exclusions contained in endorsements to this policy ~~apply~~ regardless of whether any cause, event, material or product contributed concurrently or in any sequence to the injury or damage.

It is further agreed that regardless of whether or not ~~coverage~~ is afforded by the ~~controlling underlying insurance~~, this policy does not apply to any:

a. Pollution

1. Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the actual, alleged or threatened discharge, dispersal, ~~seepage~~, migration, release or escape of **pollutants** at any time.
2. Claim, suit, demand, **loss**, cost or expense that, in any way, in whole or in part, arises out of, relates to or results from any:
 - (a) Request, demand, order or statutory or ~~regulatory requirement, or any other action authorized or required by law, that any insured or others investigate, abate, test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, remediate or dispose of, or in any way respond to, or assess the effects of pollutants as well as any loss, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom; or~~
 - (b) Claim or suit by or on behalf of a ~~governmental~~ authority for damages arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the ~~effects~~ of **pollutants**.

As used in this exclusion, “**pollutants**” means any solid, liquid, gaseous, or thermal irritant or ~~contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.~~

b. Asbestos

Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the **asbestos hazard**.

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, **loss**, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, ~~removing~~, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of **asbestos**, as well as any loss, costs, fees, expenses, penalties, ~~judgments~~

- c. Subject to Paragraphs II.a and II.b. above, the Products-Completed Operations Aggregate Limit stated in Item 2.(b) of the Declarations is the most we will pay for all loss within the products-completed operations hazard, regardless of whether the aggregate limit for each coverage provided by the controlling underlying insurance applies separately.
- d. Subject to Paragraphs II.a. and II.b. above, the limit stated in Item 2.(c) of the Declarations for the General Aggregate Limit is the most we will pay for all loss, except for loss within the products - completed operations hazard, that are subject to an aggregate limit provided by controlling underlying insurance. The General Aggregate Limit applies to all **loss**, except for **loss** within the products-completed operations hazard, regardless of whether the aggregate limit for each coverage provided by the controlling underlying insurance applies separately.
- e. If any underlying insurance does not provide separate aggregate limits for loss within the products-completed operations hazard and loss not within the products-completed operations hazard, the limit stated in Item 2.(c) of the Declarations for the General Aggregate Limit is the most we will pay for all loss, including loss within the products-completed operations hazard. Under such circumstances, any limit appearing in Item 2.(b) of the Declarations does not apply.
- f. Subject to Paragraphs II.a., II.b., II.c., II.d. and II.e. above, if the Limits of Liability of Underlying Insurance stated in Item 3. of the Declarations are reduced or exhausted solely by payment of **loss** to which this policy applies, such insurance provided by this policy will apply in excess of the reduced underlying insurance or, if all **underlying insurance** is exhausted, will apply as **underlying insurance** subject to the same definitions, terms, conditions, limitations and exclusions of the controlling underlying insurance, except as otherwise limited by the definitions, terms, conditions, limitations and exclusions of this policy.
- g. The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the **policy period** shown in the Declarations, unless the **policy period** is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.
- h. If defense expenses and payments are included within the Limit of Liability of any **underlying insurance**, then any such defense expense or payment we make, in accordance with Section III. **DEFENSE**, shall reduce the Limit of Insurance of this policy.

If defense expenses and payments of none of the underlying insurance reduce the Limit of Liability provided by those policies, then any such defense expense or payment we make, in accordance with Section III. DEFENSE, shall not reduce the Limit of Insurance of this policy.

III. DEFENSE

- a. We will not be required to assume charge of the investigation or defense of any claim or any suit against an **insured**.
- b. We will have the right, but not the duty, to be associated with the **insured** or the underlying insurers or both in the investigation of any claim or defense of any suit which in our opinion may create liability on us for payment under this policy.
- c. If the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy are exhausted solely by payment of **loss**, we shall have the right but not the duty to investigate and settle any claim

~~ments~~, fines, or sanctions arising out of, relating thereto or resulting therefrom;

As used in this exclusion, "**asbestos hazard**" means:

1. Actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, **asbestos** in any manner or form whatsoever, either directly or indirectly; or
2. The actual or alleged failure to warn, advise or instruct related to **asbestos** in any manner or form whatsoever; or
3. The actual or alleged failure to prevent exposure to **asbestos** in any manner or form whatsoever; or
4. The actual or alleged presence of **asbestos** in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

As used in this exclusion, "**asbestos**" means any substance, regardless of its form or state, containing asbestos.

c. Nuclear

1. Claim, suit, demand or **loss** with respect to which an **insured** under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its ~~termination~~ upon exhaustion of its limit of liability; or
2. Claim, suit, demand or **loss** that, in any way, in whole or in part, arises out of, relates to, or results from the **hazardous properties of nuclear material** and with respect to which (1) any person or organization is required to maintain financial ~~protection~~ pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is or, had this policy not been issued, would be entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
3. Medical Coverage, or under any Supplementary Payments provision relating to first aid, to ~~expenses~~ incurred with respect to bodily injury resulting from the **hazardous properties of nuclear material**, and arising out of the operation of a **nuclear facility** by any person or organization.

4. To any bodily injury or **property damage** resulting from the **hazardous properties of nuclear material**, if:

- (a) the **nuclear material (1)** is at any **nuclear facility** owned by, or operated by, or on behalf of, an **insured** or (2) has been discharged or dispersed therefrom;
- (b) the **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported or ~~disposed~~ of by or on behalf of an **insured**; or
- (c) the bodily injury or **property damage** that, in any way, in whole or in part, arises out of, ~~relates~~ to, or results from the furnishing by an **insured** of services, materials, parts, or equipment in connection with the planning, construction, maintenance, ~~operation~~ or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (c) applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

"**hazardous properties**" includes radioactive, toxic or explosive properties;

"**nuclear material**" means **source material**, "~~special nuclear material~~" or **by-product material**;

"**source material**," "**special nuclear material**," and "**by-product material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"**spent fuel**" means any fuel element or fuel ~~component~~, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

"**waste**" means any waste material (a) containing ~~byproduct material~~ and (b) ~~resulting from the operation~~ by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph 1 or 2 thereof;

"**nuclear facility**" means:

1. any **nuclear reactor**;
2. any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing **spent fuel**, or (c) ~~handling~~, processing or packaging **waste**;
3. any equipment or device designed or used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is ~~located~~

or assume the defense of any suit which in our opinion may give rise to payment under this policy. We may, however, withdraw from the defense of any suit or tender the continued defense to you if our applicable Limits of Insurance stated in Item 2 of the Declarations is exhausted by payment of **loss**.

If we exercise our rights under Paragraph **b.** or **c.** above we will do so at our own expense, subject to Section **II. LIMITS OF INSURANCE**, Paragraph **h.** above.

IV. EXCLUSIONS

It is agreed that this policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or any payment of **loss**, cost or expense excluded by this policy. The exclusions contained herein and any exclusions contained in endorsements to this policy apply regardless of whether any cause, event, material or product contributed concurrently or in any sequence to the injury or damage.

It is further agreed that regardless of whether or not coverage is afforded by the **controlling underlying insurance**, this policy does not apply to any:

a. Pollution

1. Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.
2. Claim, suit, demand, **loss**, cost or expense that, in any way, in whole or in part, arises out of, relates to or results from any:
 - (a) Request, demand, order or statutory or regulatory requirement or any other action authorized or required by law, that any **insured** or others investigate, abate, test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, remediate or dispose of, or in any way respond to, or assess the effects of **pollutants** as well as any **loss**, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of **pollutants**.

As used in this exclusion, "**pollutants**" means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

b. Asbestos

Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the **asbestos hazard**.

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, **loss**, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to,

~~ated~~ consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or

4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of ~~fission-able~~ material;

"property damage" includes all forms of radioactive contamination of property.

V. DEFINITIONS

Except as otherwise defined in this policy or in any ~~en-~~
~~endorsement~~ to this policy, the definition of terms and phrases contained in this policy and any endorsements to this policy will be the same as those terms and phrases are defined in the **controlling underlying in-**
sur- ~~sur-~~ **insurance.**

~~a. "controlling underlying insurance" means the pol-~~
~~icy~~ or policies listed in Item 3.a. of Schedule A – Schedule of Underlying Insurance of this policy.

b. "insured" means:

1. you; and
2. any person or organization qualifying as an ~~in-~~
~~sured~~ under **controlling underlying insurance**, but only to the extent that:
 - (a) coverage is provided by this policy; and
 - (b) coverage is provided by **controlling underly-**
ing insurance, or would have been provided but for the exhaustion of such policy's limits of liability.

c. "loss" means amounts paid to settle a claim or suit, or satisfy a judgment, for which the **insured** is legally liable. The amounts that are payable by us are ~~sub-~~
~~ject~~ to deductions for subrogation, salvages, and any other recoveries made or that are available to an ~~in-~~
~~sured.~~

d. "policy period" means the period beginning with the Effective Date shown in the Declarations and ending on the Expiration Date shown in the Declarations, unless canceled as provided in Condition **g.** of this policy.

e. "underlying insurance" means all policies and the Limits of Liability listed in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

VI. CONDITIONS

a. Notice of Occurrence or Claim

Whenever you have information from which you may reasonably conclude that an occurrence or claim appears likely to involve this policy, written notice shall be given to us or any of our authorized agents as soon as practicable.

b. Notice of Suit

If suit is brought which appears likely to involve this policy or seeks damages in an amount that would exceed 50% of the limits of the **underlying insur-**
~~ance,~~ immediate written notice shall be given to us along with copies of the suit papers.

c. Duties After Notice of Occurrence, Claim or Suit Is Given

You and any other involved **insured** must:

1. Immediately send us copies of any demands, ~~no-~~
~~tices, summonses or legal papers received in con-~~
~~nection~~ with the occurrence, claim or suit;
2. Authorize us to obtain records and other ~~informa-~~
~~tion;~~
3. Cooperate with us in the investigation or settlement of the claim, and, if applicable, defense against the suit;
4. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this insurance may also apply; and
5. No **insured** will, except at the **insured's** own cost, voluntarily make a payment, assume any ~~obliga-~~
~~tion,~~ or incur any expense, other than for first aid, without our consent.

d. Maintenance of Underlying Insurance

The **underlying insurance** shall remain in full force and effect throughout the **policy period** except for ~~re-~~
~~duction~~ of the aggregate limit due to payment of claims, settlements, or judgments. This insurance will not take the place of any **underlying insurance** in the event of denial or rejection of a claim, or if any **underlying in-**
~~sur-~~ **insurance** is cancelled or not renewed, or for any other reason except for reduction due to payment of claims, settlements, or judgments.

Failure to maintain any **underlying insurance** will not invalidate this insurance. However, this insurance will

or assessing the effects of **asbestos**, as well as any loss, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom;

As used in this exclusion, “**asbestos hazard**” means:

1. Actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, **asbestos** in any manner or form whatsoever, either directly or indirectly; or
2. The actual or alleged failure to warn, advise or instruct related to **asbestos** in any manner or form whatsoever; or
3. The actual or alleged failure to prevent exposure to **asbestos** in any manner or form whatsoever; or
4. The actual or alleged presence of **asbestos** in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

As used in this exclusion, “**asbestos**” means any substance, regardless of its form or state, containing asbestos.

c. Nuclear

1. Claim, suit, demand or **loss** with respect to which an **insured** under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
2. Claim, suit, demand or **loss** that, in any way, in whole or in part, arises out of, relates to, or results from the **hazardous properties** of **nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is or, had this policy not been issued, would be entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
3. Medical Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the **hazardous properties of nuclear material**, and arising out of the operation of a **nuclear facility** by any person or organization.
4. To any bodily injury or **property damage** resulting from the **hazardous properties of nuclear material**, if:
 - (a) the **nuclear material (1)** is at any **nuclear facility** owned by, or operated by, or on behalf of, an **insured** or **(2)** has been discharged or dispersed therefrom;
 - (b) the **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **insured**; or

apply as if the **underlying insurance** were in full force and effect.

Renewals or replacements of any **underlying insurance** will not be materially changed without our agreement

e. ~~Bankruptcy, Insolvency or Other Financial Impairment~~

In the event of the bankruptcy, insolvency or other ~~financial~~ impairment of any underlying insurer, or of the **insured** if the **underlying insurance** is comprised in whole or in part of self-insurance, we shall be liable only to the same extent we would have been had such bankruptcy, insolvency or other financial impairment not occurred. This insurance will not take the place of any **underlying insurance** in the event of bankruptcy, ~~insolvency~~ or other financial impairment of any underlying insurer or **insured**. This insurance will apply as if the **underlying insurance** were in full force and effect.

f. Other Insurance

If other insurance applies to **loss** that is also covered by this policy, this policy shall apply excess of the other insurance. Nothing herein will be construed to make this policy subject to the terms, conditions and ~~limitations~~ of other such insurance. However, this provision will not apply if the other such insurance is written to be excess of this policy.

Other insurance includes any type of self-insurance or other mechanism by which an **insured** arranges for the funding of legal liabilities.

If our Limits of Insurance stated in Item 2. of the ~~Declarations~~ are part of the total Limits of Insurance stated in Item 2, then the limits of our liability shall be that ~~proportion~~ of all **loss** which our Limits of Insurance bear to the total Limits of Insurance in Item 2. and which is in ~~excess~~ of the total Limits of Liability of Underlying ~~Insurance~~ as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

g. Cancellation

This policy may be canceled by you either by mailing or delivering advance written notice to us stating when cancellation shall be effective. This policy may be canceled by us by mailing to you at the address shown in Item 1. of the Declarations, written notice stating when, not less than thirty (30) days thereafter, ten (10) days thereafter if cancellation is for ~~nonpayment of the premium, such cancellation shall be effective~~. The mailing of notice is sufficient notice and the effective date of cancellation stated in the notice will become the end of the policy period. Delivery of written notice either by you or by us shall be ~~equivalent~~

~~to mailing~~. If you cancel, earned premium will be computed in accordance with the customary short-rate table and procedure, but we will always be entitled to receive or keep the Minimum Premium amount stated in Item 5. of the Declarations. If we cancel, earned premium will be computed pro rata.

Premium adjustment may be made at the time ~~cancellation~~ is effected or as soon afterwards as is ~~practicable~~. Our check or our representative's check mailed or delivered will be sufficient tender of any ~~refund~~ due you.

Cancellation will be effective on the date stated in the notice even though we have not made the refund of the unearned premium.

h. First Named Insured

The person or organization first named in Item 1. of the Declarations is authorized to act for all **insureds**.

If this policy insures more than one person or ~~organization~~, cancellation must be effected by the first Named Insured and notice of cancellation by us will be made to the first Named Insured and shall be ~~considered~~ as notice to all. Payment of any unearned premium to the first Named Insured shall be for the account of all.

The first Named Insured is responsible for the ~~premium~~. If the first Named Insured cannot or refuses to pay any or all of the premium, all of you are jointly and severally responsible to pay us the premium due.

i. Appeals

In the event that you or any underlying insurer elects not to appeal a judgment in excess of the Limits of Liability of the Underlying Insurance, we may elect to appeal at our expense. Our Limit of Insurance shall not be increased because of the appeal.

j. Legal Action Against Us

No person or organization has a right under this ~~policy~~ to:

1. Join us as a party or otherwise bring us into a suit asking damages from an **insured**;
2. Sue us, unless all the terms of this policy have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for **loss** that is not payable under the terms of this policy or that is in excess of the our Limit of Insurance. An agreed ~~settlement~~ means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative.

- (c) the bodily injury or **property damage** that, in any way, in whole or in part, arises out of, relates to, or results from the furnishing by an **insured** of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (c) applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

"**hazardous properties**" includes radioactive, toxic or explosive properties;

"**nuclear material**" means **source material**, "special nuclear material" or **by-product material**;

"**source material**," "**special nuclear material**," and "**by-product material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

"**waste**" means any waste material (a) containing by-product material and (b) resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph 1 or 2 thereof;

"**nuclear facility**" means:

1. any **nuclear reactor**;
2. any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing **spent fuel**, or (c) handling, processing or packaging **waste**;
3. any equipment or device designed or used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"**property damage**" includes all forms of radioactive contamination of property.

V. DEFINITIONS

Except as otherwise defined in this policy or in any endorsement to this policy, the definition of terms and phrases contained in this policy and any endorsements to this policy will be the same as those terms and phrases are defined in the **controlling underlying insurance**.

- a. **“controlling underlying insurance”** means the policy or policies listed in Item 3.a. of Schedule A – Schedule of Underlying Insurance of this policy.
- b. **“insured”** means:
 - 1. you; and
 - 2. any person or organization qualifying as an **insured** under **controlling underlying insurance**, but only to the extent that:
 - (a) coverage is provided by this policy; and
 - (b) coverage is provided by **controlling underlying insurance**, or would have been provided but for the exhaustion of such policy’s limits of liability.
- c. **“loss”** means amounts paid to settle a claim or suit, or satisfy a judgment, for which the **insured** is legally liable. The amounts that are payable by us are **subject** to deductions for subrogation, salvages, and any other recoveries made or that are available to an **insured**.
- d. **“policy period”** means the period beginning with the Effective Date shown in the Declarations and ending on the Expiration Date shown in the Declarations, unless canceled as provided in Condition **g.** of this policy.
- e. **“underlying insurance”** means all policies and the Limits of Liability listed in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

VI. CONDITIONS

a. Notice of Occurrence or Claim

Whenever you have information from which you may reasonably conclude that an occurrence or claim appears likely to involve this policy, written notice shall be given to us or any of our authorized agents as soon as practicable.

b. Notice of Suit

If suit is brought which appears likely to involve this policy or seeks damages in an amount that would exceed 50% of the limits of the **underlying insurance**, immediate written notice shall be given to us along with copies of the suit papers.

c. Duties After Notice of Occurrence, Claim or Suit Is Given

You and any other involved **insured** must:

- 1. Immediately send us copies of any demands, **notices, summonses or legal papers received in connection** with the occurrence, claim or suit;
- 2. Authorize us to obtain records and other **information**;
- 3. Cooperate with us in the investigation or settlement of the claim, and, if applicable, defense against the suit;
- 4. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this insurance may also apply; and

5. No **insured** will, except at the **insured's** own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

d. Maintenance of Underlying Insurance

The **underlying insurance** shall remain in full force and effect throughout the **policy period** except for reduction of the aggregate limit due to payment of claims, settlements, or judgments. This insurance will not take the place of any **underlying insurance** in the event of denial or rejection of a claim, or if any **underlying insurance** is cancelled or not renewed, or for any other reason except for reduction due to payment of claims, settlements, or judgments.

Failure to maintain any **underlying insurance** will not invalidate this insurance. However, this insurance will apply as if the **underlying insurance** were in full force and effect.

Renewals or replacements of any **underlying insurance** will not be materially changed without our agreement.

e. Bankruptcy, Insolvency or Other Financial Impairment

In the event of the bankruptcy, insolvency or other financial impairment of any underlying insurer, or of the **insured** if the **underlying insurance** is comprised in whole or in part of self-insurance, we shall be liable only to the same extent we would have been had such bankruptcy, insolvency or other financial impairment not occurred. This insurance will not take the place of any **underlying insurance** in the event of bankruptcy, insolvency or other financial impairment of any underlying insurer or **insured**. This insurance will apply as if the **underlying insurance** were in full force and effect.

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If other insurance applies to **loss** that is also covered by this policy, this policy shall apply excess of the other insurance. Nothing herein will be construed to make this policy subject to the terms, conditions and limitations of other such insurance. However, this provision will not apply if the other such insurance is written to be excess of this policy.

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If our Limits of Insurance stated in Item 2. of the Declarations are part of the total Limits of Insurance stated in Item 2, then the limits of our liability shall be that proportion of all **loss** which our Limits of Insurance bear to the total Limits of Insurance in Item 2. and which is in excess of the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

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and procedure, but we will always be entitled to receive or keep the Minimum Premium amount stated in Item 5. of the Declarations. If we cancel, earned premium will be computed pro rata.

Premium adjustment may be made at the time cancellation is effected or as soon afterwards as is practicable. Our check or our representative's check mailed or delivered will be sufficient tender of any refund due you.

Cancellation will be effective on the date stated in the notice even though we have not made the refund of the unearned premium.

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The first Named Insured is responsible for the premium. If the first Named Insured cannot or refuses to pay any or all of the premium, all of you are jointly and severally responsible to pay us the premium due.

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In the event that you or any underlying insurer elects not to appeal a judgment in excess of the Limits of Liability of the Underlying Insurance, we may elect to appeal at our expense. Our Limit of Insurance shall not be increased because of the appeal.

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No person or organization has a right under this policy to:

1. Join us as a party or otherwise bring us into a suit asking damages from an **insured**;
2. Sue us, unless all the terms of this policy have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for **loss** that is not payable under the terms of this policy or that is in excess of the our Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the **insured** and the claimant or the claimant's legal representative.

January 14, 2008

Commissioner of Insurance
Department of Insurance
Property and Casualty Division
Forms and Rates Unit

**RE: Arch Insurance Company /NAIC# 11150/ FEIN# 43-0990710
Commercial Excess Liability
Policy Form Revision Submission
Filing Number: ARCH-08-005
Effective Date: March 1, 2008**

To Whom It May Concern:

Enclosed please find attached the Company's Commercial Excess Liability Policy Form revision submission. A letter permitting Westmont Associates, Inc. to submit this filing on Arch's behalf is enclosed.

The Company is introducing its newly revised Commercial Excess Liability Policy in your jurisdiction and countrywide. This current edition replaces the previously filed and approved 07 04 edition of the form. Other than a few editorial changes (e.g. the conversion of the form from two to one column) which do not impact coverage whatsoever, the primary reason for the revision is the inclusion of an additional provision in Section II. Limits of Insurance. In this section, the Company has amended paragraph c. and added new paragraph e. and re-lettered the following paragraphs in that section. Please refer to the attached explanatory memorandum for additional information.

Please be advised that the revisions to the policy do not result in any rating impact whatsoever.

Your approval and/or acknowledgement of this submission is respectfully requested. If you have any questions or concerns regarding the filing, please do not hesitate to contact me. Thank you for your attention to this matter.

Respectfully submitted,

Wesley Pohler

Wesley Pohler
Assistant Vice-President
wes@westmontlaw.com

Enclosures

cc: N. Stepanski – Westmont
C. Kennedy – Arch